

Approved: 3-24-98  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 19, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Don Halbower, Great Bend, KS  
Chris Cokinos, Northern Flint Hills Audubon Society, Manhattan, KS  
Duane West, Garden City, KS  
Kathy Fitzgerald, Liberal, KS  
Wanda Adams, Plains, KS  
Gary McBee, Dighton, KS

Others attending: See attached list

Chairperson Corbin opened the hearing for the opponents on **Sub for HB 2950-Regulation and permitting of swine facilities.** He called on Don Halbower.

Don Halbower, Great Bend, Kansas, said the vast majority of the citizens in Barton County were not in favor of the mega swine industry in their county. Kansas is the focus of that industry now due to their relatively low environmental standards (Attachment 1). Mr. Halbower distributed an editorial from The Wichita Eagle Paper of March 15, 1998 asking the Kansas Senate to support the bill as it came from the House

Christopher Cokinos said the bill needs more work. He thought there is no other industry in the state with the power to more negatively affect the daily quality of life for thousands of people. He urged the Committee to include in the moratorium the kind of swine processing facilities of the size being considered for Barton County (Attachment 2).

Duane West, Garden City, KS, said in his opinion a limit on the number of hogs that may be farrowed, grown and finished on a given 160 acre tract needed to be limited. He expressed concern about different sections of the bill and proposed changes to strength those sections (Attachment 3).

Kathy Fitzgerald, Liberal, Ks., opposed the legislation. In the 21 counties that have voted on the swine production issue 20 have voted no by a margin of 72%. The present moratorium being considered prohibiting swine production facilities of over 3,800 animal units in counties that voted no is really no moratorium at all. She urged the Committee to reconsider and lower the number of animal units. She expressed concern about the dust from fecal matter and the toxic level of concentrated insecticides for the control of insects and parasites. She urged the reconsideration of the proposed separation distances. She urged the Committee to adopt standards that essentially eliminate the potential for odor and flies, potential for human health risk, and the potential for contamination of ground water and surface water (Attachment 4).

Wanda Adams, Plains, Kansas opposed the permitting process. She suggested all affected property owners should be notified by certified mail. She asked for support of the amendment which allows the citizens to resubmit the proposition of whether to allow swine production facilities through a binding vote (Attachment 5).

Gary McBee said he was concerned with the loophole for mega-family farms such as Murphy Family Farms coming into their community. He said the most important message he had for the Committee was "give the people the right to vote". He did not think the closure/clean up issue is properly addressed, and the Secretary

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 19, 1998.

of KDHE is given to much leeway in modifying rules and regulations. He supported a moratorium until the K-State research study on lagoons could be completed in 1999. He thought the long term effects of large scale hog farms was not known yet, and he could see no good reason to bring these entities into Lane County, Kansas (Attachment 6)

The following names are conferees unable to attend but submitted written testimony opposing the bill.

Dr. William C. Skaer, DVM, and Vicki Skaer, Wichita Kansas (Attachment 7)

John Flicker, President, National Audubon Society (Attachment 8).

John W. Zupancic, Dodge City, Kansas (Attachment 9).

Max Johannsen, Chairman, Meade County Commissioner (Attachment 10).

Bryan and Diane Enns, Meade, Kansas (Attachment 11).

Leon Winfrey, Plains, Kansas (Attachment 12).

Byron Bird and Associates, Chtd. (Attachment 13).

Lee Messenger, Garden City, Kansas (Attachment 14).

Susan George, on behalf of Defenders of Wildlife and its members and supporters in Kansas, Albuquerque, NM (Attachment 15).

Committee time expired. Chairperson Corbin asked the conferees that had not had any opportunity to testify to return on Monday. If they could not do this they were invited to submit their written testimony which will be distributed to the members of the Committee.

The next meeting is scheduled for March 23, 1998.

The meeting adjourned at 9:01 a.m.

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

DATE: March 19, 1998

| NAME                              | REPRESENTING                |
|-----------------------------------|-----------------------------|
| Earl Willis Jr                    | Self                        |
| Jane Willis                       | self                        |
| Pat Halbower                      | self                        |
| Don Halbower                      | self                        |
| Debbie Knobloch                   | Self                        |
| Mike Knobloch                     | self                        |
| Amy Wignity                       | AP                          |
| Laura DeClue                      | 119th Dist                  |
| Roger Meyer                       | Cap. Jernin                 |
| Dennis Gros, Intern               | Sen. Huels Kamp             |
| Dini Harrison                     | Cap. Jernin                 |
| Chris Atkins Northern Flint Hills | Audubon Society 2328 Bailey |
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Manhattan  
KS 66502

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

DATE: March 19, 1998

| NAME               | REPRESENTING                           |
|--------------------|--|
| Jim Allen          | Seaboard                               |
| Bill Fuller        | Kansas Farm Bureau                     |
| Shantz             | Murphy Family Farms                    |
| Ernie Kessinger    | HNS                                    |
| Jamie Clover Adams | Governor's Office                      |
| Marty Vanier       | KAA                                    |
| Don Thalmann       | KS Audubon                             |
| Rich McKee         | KLA                                    |
| Dan Smith          | KDME                                   |
| Charles Benjamin   | KNRC/KS Sierra Club                    |
| Tom Brown          | All + Assoc.                           |
| Leslie Kaufman     | Ks Farm Bureau                         |
| Mike Jensen        | Ks Pork                                |
| Wanda Adams        | myself                                 |
| Kathy Fitzgerald   | self                                   |
| Duane E. West      | Quality of Life Committee - Finney Co. |
| Gary McBee         | Citizens for a Better Finney Co.       |
| Ivan W. Wyatt      | Ks Farmers Union                       |
| Paul Johnson       | PACK                                   |

Testimony in opposition to H.B. 2950  
Don Halbower, 3810 McKinney Drive, Great Bend, Kansas 67530  
(316) 792-4876  
Senate Energy and Natural Resources Committee  
March 19, 1998

Good morning Senators:

My name is Don Halbower. I'm a retired school administrator from Great Bend. Thank you for the opportunity to share my views with you regarding the proposed expansion of the corporate hog industry in Kansas and H.B. # 2950.

Last November, Seaboard officials met with the Barton County Economic Development Commission. They announced they were going to build a large hog processing plant that would employ 2,200 people with a \$55,000,000 annual payroll. They stated the plant would be located in Great Bend, Garden City or Amarillo, TX, and they would make the decision in two weeks. Our Chamber of Commerce, County Commissioners and City Council were rushed (stampeded) into thinking we had to convince Seaboard that we wanted them more than the others. Letters expressing support for Seaboard were sent by each of the governing bodies. T.V, radio and newspaper ads, funded by unknown sources, ran for weeks stating that "Great Bend and Barton County were hog wild for Seaboard".

Well, gentlemen, I'm here to tell you that the vast majority of the citizens of Great Bend and Barton County **are not** in favor of this industry coming to our area. Our local officials endorsed this "opportunity" without doing their homework to learn the history of Seaboard and the industry as a whole. They acted on information provided only by Seaboard officials. I don't have to tell you that major decisions, made in haste, are rarely good ones. I'm very pleased that, for whatever reasons, the two-week time period stated by Rick Hoffman has now surpassed four months. This has allowed those of us who were willing to do some research the time to do so. When salesmen come to **your door**, offering you the "opportunity of a lifetime" but you need to make a quick decision before it goes to someone else, red flags should go up all over the place.

Here are just a few facts, supported by documentation, I'm giving you in the packets:

1. The corporate hog industry has a 10-year history of moving from one state to another seeking weaker environmental standards (places to dump waste), tax and other incentives, trusting, naive, rural people, thus higher profits.
2. Every state that has hosted this industry (NC, MN, IA, MO, OK, IL, IN, CO and others) has experienced environmental disasters which have forced them to strengthen their laws. The Oklahoma legislature just invoked a moratorium and the Oklahoma governor has stated that he is opposed to any further expansion of the industry in his state. When such actions occur, the corporations simply look for new territory to pollute.
3. Kansas and Utah are now the focus of the industry due to their relatively low environmental standards and weak enforcement of what standards they do have. Our KDHE is terribly understaffed. There is no way they can adequately monitor the existing hog sites, let alone the hundred or more new

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sites Seaboard is trying to establish to support the proposed new processing plant.

4. With their years of experience in state after state, these corporate giants have become quite expert in knowing how to influence people in key positions to make decisions in their favor. But they **never** want these decisions to be made by a vote of the people. When Rep. John Edmonds introduced his H.B. to give the people the right to vote, the industry officials and lobbyist were quick to ridicule and oppose such a notion. Why??? Because, to date in Kansas in the twenty counties where referendums have been held, the industry has been defeated by more than 71%

Just a word regarding family farms: Each hog factory replaces many family farms. In North Carolina, between 1985 and 1995, the number of pork producers dropped from 23, 00 to only 8,000, while hog production tripled. It is estimated that for every corporate hog operation that comes into an area, about 100 family farms cease to exist.

Now let's talk about the environment:

Huge hog "factories" produce vast quantities of sewage. A pig excretes as much as four times the waste of a human. Each "factory" site stores millions of gallons of this sewage in 5-15 acre cesspools, which the industry chooses to call lagoons. (A rose by any other name....) In Kansas, the current standard permits a cesspool to leak up to ¼ inch per day. This doesn't sound like much until one does the math. That ¼ inch per day for a small 5-acre cesspool totals 1,018,284 gallons of raw sewage **each month** going into our precious ground water.

The normal practice of the industry is to spray this raw sewage on fields as fertilizer. This is fine until it is done in excess. When the ground becomes saturated, the excess simply runs off, collects in low places, as fluids tend to do, then finds its way into the streams, rivers or groundwater.

And then we have the spills. It is not a question of **if** there will be spills .... it is simply a question of when, where they will happen and how much damage will be done. The Missouri Dept. Of Natural Resources found that 63% of all confined-animal feeding operations, larger than 1,000 animal units, had spills between 1990 and 1994. Within the last month, Oklahoma has had two major spills, one of which (a very large one) was just 65 miles northwest of Oklahoma City, upstream from the reservoir that supplies their water.

Great Bend is located just 5 miles southwest of Cheyenne Bottoms, which is one of the largest, most important migratory wildlife refuges in North America. It has been designated "a Wetland of International Importance" and our nation has subscribed to an international treaty pledging to protect the wildlife that visits the bottoms twice each year. Quivira National Wildlife Refuge is located just 20 miles southeast of Great Bend. It, too, hosts millions of migrating birds each year, including four endangered species and one threatened specie.

Due to the way the areas around Great Bend are populated, the hog production facilities, to be located within a 100 to 150-mile radius, would have to be located northwest and west and southwest of Great Bend, up stream in the Walnut Creek and

Arkansas River watershed basins. These basins flow toward Cheyenne Bottoms, Quivira Refuge, Hutchinson and Wichita.

Only two weeks ago, E.P.A. cited Kansas. Ninety-seven percent of our streams and rivers **now** fail to meet the federal "Clean Water Act" standards. Just think how much worse this will be with another 100 or more hog factories making their contributions through spills, pool leakage and field run-off.

It is always far less expensive to prevent pollution than it is to clean it up after it happens.

H.B. #2950 has some flaws. It was crafted with considerable input from the hog industry itself. The animal unit limits are too high and the environmental protection standards are too low. No provisions are made to enlarge and improve the KDHE to enable it to properly monitor and enforce even current regulations on the present number of facilities.

The bill does, however, move in the right direction in some areas, especially regarding moratoriums and referendums. Please act to strengthen these. We should be using Wyoming, Minnesota and North Carolina as models. Laramie County, WY, has the following regulations: Setbacks:

1. Three miles from an occupied dwelling, without the written consent of the owner of the dwelling.
2. Three miles from a public or private school without the written consent of the school board of trustees or board of directors.
3. Three miles from the boundaries of any incorporated municipality, without the resolution and consent of the governing body of the municipality.
4. One-half mile from a water well permitted for current domestic purposes without the written consent of the owner of the well.
5. One-half mile of a perennial stream.
6. (MOST IMPORTANT) No structures housing swine, or the waste treatment works and lagoons associated therewith, shall be located on any real property wherein the mean static groundwater table is less than **one hundred fifty feet** below the surface.

These are examples of real regulations designed to protect the environment

Above all, **please give the people of each county the right to vote regarding hosting mega hogs in their county.**

We implore you to do whatever is necessary to make this bill protect our water, air, wildlife and overall quality of life. The corporate hog industry will pollute and diminish all of the above. We must not let this happen. We must learn from the experience of many other states.

The past is the best predictor of the future.

When you accept an invitation to dance with a bear, you **must** understand that the bear will always lead ... and **the bear alone will decide just when and how the dance will end.**

**We must not accept the invitation to dance with this "bear"!**

Thank you for listening.



Testimony on Substitute HB2950  
before the Senate Energy and  
Natural Resources Committee  
March 19, 1998

Thank you for the opportunity to speak to you on this important issue. My name is Christopher Cokinos. I am a resident of Riley County--Sen. Oleen's district--and I am the Conservation Co-Chair for the Northern Flint Hills Audubon Society. I am representing the Northern Flint Hills Audubon Society today. I should point out that our chapter has "adopted" Quivira National Wildlife Refuge as an ongoing volunteer responsibility. Members of our chapter have helped construct nesting boxes, cleaned up the education center, and guided visitors around the refuge on open house days. As well, members of our chapter were instrumental in protecting Cheyenne Bottoms' water rights several years ago.

So our interest is more than academic.

First, I wish to say that I appreciate the work done in the House to revise this bill into a more acceptable form. But more remains to be done.

Let me cast my comments beneath the phrase "quality of life." Over and over I have heard proponents of large corporate hog operations say that it is unfair to single out this industry for even a partial moratorium. Travel agencies and dry cleaners, for example, are not subjected to county votes, why should corporate hog farms be so subjected?

The simple fact is that there is no other industry in the state with the power to more negatively affect the daily quality of life for thousands of people. People near

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corporate feeding and processing facilities must cope with odor, flies, dust, increased traffic-- the list goes on. Travel agencies don't slaughter thousands of hogs a day. Dry cleaners don't raise two million hogs in a 100-mile area. Corporate swine confined animal feeding operations and slaughterhouses do.

It is a fact of life that we ask different kinds of businesses to live up to different regulations and live with different expectations.

Audubon supports the moratorium language in this bill but we urge you to **include in the moratorium the kind of swine-processing facilities of the size being considered for Barton County.**

Why? Because this bill needs to protect the quality of life for thousands of Kansans who are here already--and do so in the context of slowing down a trend whose social, political and environmental consequences are very, very serious. We need to await further research on environmental questions until allowing any further swine feeding or processing operations.

If you strip the moratorium language, you are telling Kansas that you prefer--that you desire--to make quality of life, public policy decisions **without** information. **That you prefer ignorance to data.** And that is wrong.

Furthermore, this bill still does not do enough to protect Cheyenne Bottoms and Quivira National Wildlife Refuges, two of the world's most important wetlands, whose status has caught the attention of organizations around the country, including Defenders of Wildlife, the National Audubon Society, the Center for Wildlife Law and the Grassroots Environmental Effectiveness Network.

Another way to ensure that policymakers have the information needed to make intelligent decisions is to **require of all swine and livestock CAFOs and processing plants within the area or watershed of a state or federal park or refuge be subjected to an Environmental Impact Assessment, conducted by a multi-agency team that must include biologists from the U.S. Fish and Wildlife Service.**

No one--I repeat no one--knows nearly enough about the hydrological and ecological effects of Seaboard's planned processing plant and contracted swine-raising operations on the Bottoms and Quivira. Let me remind the committee that Cheyenne Bottoms and Quivira NWR are covered by several Federal areas of regulation, including the Migratory Bird Act, the Endangered Species Act and the Clean Water Act.

I'll ask this committee the same question I asked the House: have you consulted with any refuge biologists to begin at least a preliminary assessment of the potential impacts?

The nation is watching what you do today and in this session. We will not abide threats to our precious wild heritage. Thank you.

TESTIMONY OF DUANE WEST, CHAIRMAN OF THE QUALITY OF LIFE COMMITTEE,  
GARDEN CITY, FINNEY COUNTY, KANSAS, before Senate Committee-Mar. 19, 1998-  
ON Substitute for HB No.2950 as amended in the House of Rep.

LADIES & GENTLEMEN OF THE COMMITTEE:

How the State Legislature deals with the question of hog farming will have a profound affect on our state and its citizens for many, many years.

In July 1996 I read in our state's largest newspaper an article that mentioned that a Japanese corporation was considering putting in a 100,000 head hog feeding operation south of Garden City, a town in which I have lived since 1940. My concern about that article prompted me to get involved in an effort to rescind the resolution permitting corporate hog farming passed by my commissioners in 1994. During this "battle", Seaboard Farms announced it might build a pork processing plant in Finney County which would slaughter 4.16 million pigs per year! That if effect opened a "two front" war and my committee and I have been hard at it ever since!

Fortunately, with the help of public opinion, we recently persuaded our current commission to rescind the previous permissive resolution. Almost 1,000 signatures were obtained on petitions asking Seaboard to put their plant elsewhere, but as yet the company has not made a final decision.

Now we are trying to keep Finney County from Going To The Hogs! That brings me to the matter at hand--this proposed legislation.

We are not anti-agriculture as we have supported the cattle feeding industry in our area for many years. And we are not necessarily anti-hogs! We are instead anti-MEGA HOG operations that will deluge, inundate and smother our farms, towns, rural subdivisions and cities with pigs, pig stench and pig poop! We are doubly concerned as to what the latter will do to our surface and groundwater and if we will lose these precious and irreplaceable assets due to further depletion and pollution!

The small community of Milford, Utah is presently being swamped with over 600,000 hogs in its immediate surrounding area. Other cities over the nation are experiencing the same situation as the big, national and multi-national outfits move in. We do not want this to happen in Finney County or in any other area!

What is needed most, in our opinion, is a limit on the number of hogs that may be farrowed, grown and finished on a given 160 acre tract. Only a certain number should be permitted on each quarter section, and I am talking about animals, NOT animal units! As you all know, a pig produces about four times as much "poop" as a human being. The waste from 4.16 million hogs would be the equivalent of that of 16.64 million people! Neither the State nor the EPA would allow a city of 16 million people in Lane County or elsewhere to dispose of its waste on the farmers' fields! It is mind boggling that we are going to allow that sort of thing to happen, especially considering the infectious diseases that can come from pig poop!

Your bill talks about animal units. If there is any limitation on the number of units for any given acreage, I missed it. And does your definition of "confined feeding of animals" also include the necessary farrowing and growing sections of a total hog operation? Does the number of animal units you cite in the various sections include all of the hogs, that is, the brood sows, the newborn piglets, the growing pigs (under

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55 pounds) and those being fed up to sale size? The bill should make clear that these numbers cited refer to the total number of hogs in all three categories, including sows and boars.

The animal unit charade in this bill means that for a facility of 999 AUs, 9,999 baby pigs could be located within 1320 feet of a habitable structure. That's only a quarter of a mile away from a heck of a lot of hogs! For AUs of 3725, 37,250 baby piglets or hogs weighing under 55 pounds could be located within just 4,000 feet of a habitable structure. That might seem like a long way, but if it was your home or my home it certainly would be much too close! Even a 5,000 foot setback for a facility over 3725 animal units is way too close and may well force rural and suburban families from the homes and farms they have worked years to build! Numerous individuals tell of air-borne hog stench which carries for miles, not just feet. We must bend over backwards to see that property owners will not have their rights confiscated by default by making their premises uninhabitable from too many hogs too close!

Your setbacks from surface water and private drinking water wells seem woefully inadequate considering the actual number of pooping pigs that can be located in a operation of 3725 animal units or less. That's 37,250 baby piglets or 37,250 pigs under 55 pounds or 9, 312 hogs between 55 and 250 pounds!

New Section 5 deals with manure management plans and requires such only for animal units of 1000 or more. Since that's 10,000 piglets and little pigs and 2500 feeder pigs, it seems any new swine facility should have such a plan. Why not?

The provisions in this bill for lagoon liners seem insufficient in view of the fact that the K-State study on lagoons and contamination possibilities has not yet been completed. As I understand the bill, no regulations are included for lagoons if the groundwater is deeper than 150 feet. Only monitoring wells are provided for and there <sup>as</sup> don't appear to be any provisions for periodic submission of samples to see if any contamination is occurring.

We note the fact that the Secretary may require trees be planted as vegetative screening to control odor where there are 1000 or more AUs. Are these Magnolia trees or is there really some thing to this idea?

New Sec. 11 provides that an odor control plan must be submitted for AUs of 1000 or more. Why not odor control plans for any new swine facility? Odor is one of the very, very real issues when it concern the proliferation of pigs plaguing the populace!

New Sec. 12 deals with closure of swine facilities. This concerns us as it appears AUs under 3725 need not have any plan for what happens if the deal goes "belly up"! Why not require a commercial bond or cash deposit with the county in which any facility is located to insure that the taxpayers won't get stuck with the cleanup if the pig producers poop out. This section also seems to say there should be a closure plan, but if the producer doesn't want to close it's all right. At least there doesn't seem to be any proviso to force compliance and that does not seem good to us. And shouldn't there be a definition of "close"?

New Sec. 14 dealing with inspections does not seem strong enough. If swine production is to be allowed on such a grand scale, then we sincerely believe our State should pay very strict attention to see that our precious water resources are not being contaminated. We believe more frequent inspections should be built into the law and that costs of the inspections should be recovered from the producers.

New Sec. 15 contains a provision we believe should be deleted in its entirety. Section (b) deals with the nuisance question. We believe such an issue should be properly left to the courts.

We wonder why New Sec. 17 does not require a dead animal handling plan for all swine facilities, not just those over 1000 AUs. What happens in those piglet barns, growing barns and finishing barn with 10,000 10,000 and 2500 hogs respectively? There appears to be high mortality rates in this industry so this should be changed.

New Sec. 19 concerns us very much. The high costs of conducting these nutrient management test should be recouped from the hog producers themselves, not the taxpayers! How can the University possibly carry out this part of the law if these operations go in willy-nilly all over western Kansas.

Frankly, a two year moratorium on any new hog operations until the K-State study on potential groundwater problems is complete would really be the smart thing to do. If these facilities are permitted to go in now and the study shows that contamination will or might occur, the public will be outraged!

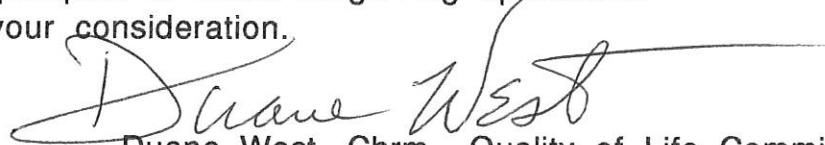
New Sec./ 28 defines "Qualified Swine facility". One definition is one owned by a "family farm corporation". Does that mean a corporation of resident Kansas stockholders or does it include Murphy Farms? This should be clarified here and elsewhere in our law to avoid future litigation. And why give tax CREDITS? Why not let these folks use the depreciation part of our tax code like any other business!

New Sec. 30 introduces a moratorium of sorts that is not clear to us. A new term-"swine production facilities"-is not defined. Does the term include all three phases of the business--farrowing, growing and finishing? We believe the term should be defined to include all three types of operations.

As the section now stands, it appears that many, many hogs would still be permitted even though voters had voted for no hogs? To us, a "for" or "against" should mean just that! If the folks said NO, then for heavens sake, let it mean NO! Zero Animal Units! ZIP! NADA! NYET!

In summary, we urge you to make the changes we have proposed, especially that limiting the number of actual hogs on each quarter section! With the additions and corrections, we believe the bill would be beneficial to all of Kansans, especially those faced with the prospect of these Mega-Hog operations!

Thank you for your consideration.



Duane West, Chrm., Quality of Life Committee  
Box 712. Garden City, Kansas 67846  
316/276-6754

Testimony before Senate Energy and Natural Resource Committee  
re: Substitute House Bill 2950  
date: March 19, 1998  
presented by: Kathy Fitzgerald, R.R. 2 Box 26, Liberal, KS 67901

My name is Kathy Fitzgerald. I am a lifelong resident of Kansas and have lived the past 38 years in Seward County. I am an elementary school teacher. My district's spring break allows me the opportunity to be here today. I have driven 360 miles to be able to testify. I make these points because I know bus loads of corporate swine employees have been sent to Topeka and Oklahoma City. I want you to know I am here on my own time and at my own expense.

My husband is a fourth generation farmer/cattle rancher in Seward County. We are Farm Bureau members. I am a founding member and present secretary of a non-profit group called Citizens for a Healthy Environment. I was very involved in the election held in Seward County on September 16, 1997 that let the voters decide whether they wanted corporate swine production in our county. The people spoke with a resounding 75% rejection of corporate swine production. I am sure you senators know more than I how difficult it is to get 75% of the voters to agree on any one issue! Yet Seward County is not an isolated case. In the 21 counties that have voted on the swine production issue 20 have voted no by a margin of 72%. I am sure this is not new news. However, I feel you should be reminded of these statistics as you consider Substitute House Bill 2950.

The present moratorium that is being considered prohibiting swine production facilities of over 3,800 animal units (an equivalent to 9,500 hogs) in counties that voted no is really no moratorium at all. I urge you to reconsider and lower the number of animal units.

Leisa Williams of rural Forgan, OK could testify to what it is like to be neighbors of large-scale swine producers. Leisa's 17 year old son has aplastic anemia, an auto-immune deficiency disease that is potentially fatal. When construction is completed, Leisa's home will be surrounded by approximately 500,000 hogs owned by three different corporations. Yet the majority of these "facilities" will each have less than 3,800 animal units. Chemicals used to treat the lagoons as well as those used in the hygiene process will be airborne, and toxic levels of concentrated insecticides for the control of insects and parasites in the buildings will also affect the environment. Dust from fecal matter containing bacteria could prove deadly for an already "at-risk" child. Dr. Rosen, a hematologist in Wichita, has

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addressed the concerns about the environmental issues and how they will affect Leisa's son. Yet, construction continues on these facilities. (used with permission, Leisa Williams, Rt. 1, Box 80, Forgan, OK)

Opponents to lowering the number of animal units on the moratorium use the idea of wanting to protect the small independent hog producer. I am in agreement with this goal. Unfortunately, the independent producer is being put out of business by the large corporations. Between 1990 and 1995, 32 percent of this country's hog farmers (more than 86,000) went broke or quit. During this same period, USDA numbers reveal large commercial hog operations doubled their market share from 20 to 51 percent. Last year, 24,300 independent hog farmers - 13 percent of them - left the business. Corporate swine production reduces the number of buyers available to independent farmers. This is certainly evident in southwest Kansas where the independent hog producer no longer can compete and has been forced out of business. We no longer have a swine receiving station in our county.

I would urge you to reconsider the proposed separation distances, 5,000 feet for facilities with an animal unit capacity of 3,725. This would allow approximately 10,000 hogs to locate less than 1 mile north, south, east and west from a residence. The stench from 40,000 hogs within a one mile radius will certainly change the quality of life and devalue your property.

Living in the southwest corner of the state, it's a short drive to Oklahoma to be able to see and smell for ourselves what corporate swine production can do to the quality of life. The recent votes of the citizens in western Kansas indicates a strong desire to protect the quality of the air and water resources of our counties. I urge this committee to adopt standards that essentially eliminate the potential for odor and flies, potential for human health risk, and the potential for contamination of ground water and surface water in Kansas.

As it stands House Bill 2950 does not achieve these goals. I would like for you to consider putting size limits (or banning) anaerobic lagoons and prohibit spraying of hog waste on fields. Industry should be required to use modern waste treatment processes similar to a municipal wastewater facility. Counties should be allowed to limit the number of animal units.

In conclusion, I support strengthening HB2950, lowering the animal units on the moratorium, and allow counties to resubmit the question of whether a swine production facility shall be allowed to be established.

TESTIMONY BEFORE THE SENATE ENERGY AND NATURAL RESOURCES  
COMMITTEE ON SUBSTITUTE FOR HOUSE BILL 2950  
March 19, 1998

Presented by Wanda Adams, 8051 CC Road, Plains, Kansas

Chairman and members of the Senate energy and natural resources committee; thank you for allowing me to testify before you today on substitute house bill 2950. My name is Wanda Adams. I live in Meade County. My background is agriculture. I am concerned about what is happening in my community because of corporate hog farming. I speak to you today from experience, Dekalb Swine Breeders located in Meade County 1971. I have been following the debate closely since 1994.

I am testifying before you today because I want to assure future generations a secure and independent place in agriculture.

First, I want to comment on the permitting process. Refer to (i)(1)(2)(A)(B)(C). I object to allowing the board of county commissioners of the county where the confined feeding facility is located to submit a written request to seek a reduction in separation distances. I also object to allowing the secretary to reduce the separation distance if the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology. Separation distances should be reduced only with the written permission of owners of habitable structures within the separation distances.

Next, refer to (1) (C) The applicant shall give the notice required by subsections (i)(2)(B) and (C) by certified mail, return receipt requested, to all owners of habitable structures within the separation distance. I am suggesting that not only do the owners of habitable structures need to be notified by certified mail, each affected property owner should also be notified by certified mail. "Affected property owner" means a surface landowner within three miles of the designated perimeter of an animal feeding operation or an expansion operation for which a license is being sought. I believe each affected property owner, whether it is a landowner or an owner of a habitable structure, requesting an administrative hearing should receive a hearing. The KDHE should hear testimony and accept evidence pertaining to the physical and technical suitability of the proposed facility or expanding facility. An affected property owner should have the opportunity to present specific allegations based on scientific and technical findings of fact showing that the proposed facility or expanding operation may have a direct, detrimental, or substantial effect on the "affected property owner".

Since 1994, there has been a significant number of requests for public hearings in western Kansas on corp

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applications. None have been granted. The point is that there is NO formal sounding ground. The KDHE has consistently brushed away our concerns relating to corporate hog operations. Who can deny a neighbor the right to a hearing when 40,000 aromatic neighbors move in next door?

County commissioners have been given the authority to deal with this issue. However, many of them in western Kansas have crawled under the table in hopes that the storm will blow over. In some counties, commissioners have been threatened with personal law suits if they rescind the corporate hog resolution, and intimidation practices are used.

In 1994, Meade County commissioners passed a resolution allowing corporate hog farming. The public brought the issue to a vote, and it passed by a narrow margin (941 in favor of and 817 against). Due to recent public pressure in our area, the county commissioners in November of last year allowed us to have a non-binding vote. Public sentiment has changed, this time the vote was 65% in favor of rescinding the resolution which allows corporate hog farming. The vote was 813 to 463. However, county commissioners have refused to act upon the will of the people. We voted, but our vote didn't count. County commissioners are dictating to us without regard for majority vote.

Where is the justice in this kind of system? Once again, the ball is back in your court. I am asking you to support the amendment which allows the citizens to resubmit the proposition of whether to allow swine production facilities through a binding vote. I am asking you to do the right thing and establish clear authority with the citizens. Base your decision on what the majority of people in western Kansas is asking you to do. And replace disillusionment with confidence and trust.

The ambiguity of the statutory language of Senate Bill 554 does not outline what counties can or cannot do. One thing is clear; the intent was to allow counties the right to decide what is in their best interest. Now, it is up to you to confirm that intent.

The Oklahoma House Agriculture committee vice-chair recently said, "We gave these corporate farms an inch and they took much more than a mile. They are acting like undisciplined children with a new toy."

In reference to the other amendments, all are favorable. I do want to add that to have a true moratorium, the animal units of 3800 would have to be lowered. I conclude it would be quite easy for the corporate hog farms to downsize.

Thank you for giving me the opportunity to comment.

Sincerely,

*Wanda Adams*

Testimony in opposition to H.B. 2950  
Gary McBee P.O. Box 222, Dighton, Kansas 67839  
(316) 397-2275  
March 19, 1998  
Senate Energy & Natural Resources Committee

My name is Gary McBee and I am a third generation western Kansan. My grandfather homesteaded in Ness County and I am a farmer and rancher living in Lane County.

I appear before you today to address issues that greatly concern me regarding H.B. 2950.

1. I am greatly concerned about the loophole for mega-family farms such as Murphy coming into my community as a family farm when they are the biggest hog producer in the United States. If they are a true family farm, a family member should live in the community and be actively involved in management on site; not from North Carolina or some other state. Proponents of big hog production say that Murphy or any other large scale entity will save our community. The big hog industry is here for one reason—to make big bucks! When you put all your pigs in one blanket, the economic risks become greater, because your economic base is less diverse. When you bring in the giant hog industry you will essentially kill other types of business enterprises from coming in because they want clean air, water, and a stable work force.
2. I don't think the closure/clean up issue is properly addressed. I asked both Gary Mitchell, KDHE Secretary, and Murphy Farms personnel at the Jetmore hearing last fall what they would do in the case of a catastrophic spill. Neither could adequately assure us of competent clean up procedures. I

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request that the mega-hog farms file a closure plan at the time they file an application for a permit and also post some sort of guarantee bond or liability insurance policy.

3. I do not like giving the KDHE Secretary leeway in modifying rules and regulations as he sees fit as conditions change. This gives far too much authority to one person to make arbitrary decisions concerning environmental standards.
4. I still support a moratorium until the K-State research study on lagoons is completed in 1999. Why are we spending taxpayer dollars on a research project and continuing to allow mega-hog farms to develop without the results of the study? We need to protect our current irrigation farmers, small hog producers, and cattlemen from this invasion of mega-hog factories. Large scale hog farms are detrimental to the small family farm. Independent producers create 3 times as many jobs as contract producers. (Study by the University of Missouri)
5. The long term effects of large scale hog farms are not known. There is not enough research in others areas such as economic, social, medical, and legal. Having read a mountain of information that is available , and having visited several mega-hog sites, including the latest Murphy site in Oklahoma, I conclude that there is not one good reason to bring these entities into my community and Lane County, Kansas. I do not see these as sustainable agriculture with any real, long-term economic, social, or environmental benefits to our communities. Thank you for your time and attention to this very serious issue.

# Dr. William C Skaer, DVM

Skaer Veterinary Clinic

603 North Edgemoor

Wichita, Ks. 67208

Phone # (316) 683-4641

FAX # (316) 683-0817

March 19, 1998

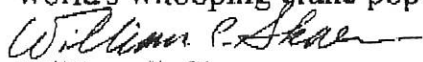
Senator Corbin and members of the committee:

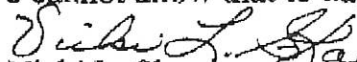
We are Bill and Vicki Skaer of Wichita. Our family has lived for seven generations on a family farm in Butler County. In fact, we both grew up in the same community with Senator Corbin. Our daughter and granddaughter now live on the family farm. That makes our granddaughter the seventh generation in that community. We tell you this to emphasize that we have deep roots in Kansas.

We are opposed H.B. 2950 in its current form, and ask you to strengthen it to protect our environment and family farms. There is a perception that people in south central Kansas aren't affected or concerned about the proliferation of mega-hog factories in Kansas. Nothing could be further from the truth. Citizens in south central Kansas are deeply concerned about this issue. Just go back and read all the letters to the editor in the Wichita Eagle, or get out in the community and listen. Attend an Audubon meeting, and hear the concerns of several hundred people about wetlands and wildlife in areas affected by hog factories. After all, the people in south central Kansas live down-stream on the Ark River from Great Bend.

These people are not environmental activists. They are ordinary citizens who think it is foolish to put our Kansas environment at risk for the profits of mega-corporations. They may not know that allowing up to a quarter of an inch of seepage from waste lagoons is equivalent to 7000 gallons per acre per day of seepage. They don't realize that waste from 10,000 hogs is like the waste from a city of 25,000 people, only we require cities of 25,000 to have a waste water treatment facility. But the people aren't fooled, they see what has happened to the environment in other states where these entities have proliferated.

H.B. 2950 does not protect the fragile environments of Cheyenne Bottoms or Quivira National Wildlife Refuge. Those are wetlands of international importance that are critical to many migrating birds such as the endangered whooping crane. A five thousand foot set-back from wildlife refuges and parks isn't any guarantee. Look at what happened in Oklahoma last fall when a spill of hog manure contaminated a national wildlife refuge. Wildlife officials had to fire guns to scare off whooping cranes because they feared the bacteria in the manure would wipe out a significant part of the world's whooping crane population. We cannot allow that to happen

  
William C. Skaer

  
Vicki L. Skaer

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March 4, 1998

The Honorable William Graves  
Governor of Kansas  
Kansas Statehouse  
Topeka, KS 66612

Dear Governor Graves:

I am writing on behalf of the National Audubon Society and its 550,000 members across the country, out of deep concern for the future of the Cheyenne Bottoms wetland complex, Quivira National Wildlife Refuge and the central Kansas environment in general.

As you know, Seaboard Farms of Shawnee Mission, Kansas, is considering the placement of a pork processing plant in Barton County. Should Seaboard choose to locate there, the company will contract to raise four to five million hogs each year.

The National Audubon Society is concerned about the potential impacts of a multitude of large scale hog feeding operations in an ecologically sensitive area. Because Cheyenne Bottoms is such a critically located wetland complex along the Central Flyway, it has been designated as a "Wetland of International Importance" under the RAMSAR convention, and is part of the Western Hemisphere Shorebird Reserve Network. It is an important migratory area for populations of waterfowl numbering in the hundreds of thousands and large percentages of the total populations of a number of species of shorebirds. It also hosts several endangered and threatened species at different times of the year, including the Whooping Crane, the Bald Eagle, the Least Tern and the Piping Plover. Cheyenne Bottoms is irreplaceable. Its ecological importance and natural beauty have made it one of the top birdwatching and hunting destinations in the central United States. Its neighboring refuge, Quivira National Wildlife Refuge, is an equally vital habitat. Quivira's significance is symbolized by the recent formation of a Friends of Quivira organization by business and community leaders from surrounding towns. They have been working hard to promote the refuge as a destination available to Kansans and others.

The placement of numerous large hog confinement operations and processing plant facilities located near these refuges would bring odors that will deter many visitors from birding and hunting at these locations. At a time when many communities have discovered the economic boon of promoting nature-based tourism, these facilities could have a detrimental impact on local economies. Of even greater significance, the quality of life for local residents -- farm and ranch families, residents of rural areas and nearby communities -- may in some instances be irrevocably diminished, along with the property values of their homes and businesses.

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We are gravely concerned about the possible impact of the operation of these facilities on the quality of both surface and groundwater. There is the likelihood of pollution from waste lagoons and run-off from fields in which hog waste is being applied as a fertilizer. We also note that despite assurances to the contrary, such pollution has been substantial in similar operations throughout the country. We are concerned that little attention has been paid to the effect of waste lagoons on waterfowl and other wildlife that may utilize the lagoons and other waters (streams, lakes and wetlands) that may be contaminated by runoff.

The National Audubon Society agrees with the statement of the Kansas Catholic Conference Board of Directors, which this month said, in part, "Large confined swine operations deserve very special attention by all Kansas citizens. These operations have been prone to spills, run-off into streams and seepage into groundwater in several states. Kansas has little specific research in the area of lagoon construction, seepage rates, appropriate swine wastewater application rates or the control of obnoxious odors." The research should be completed and debated before a multitude of additional facilities are built.

Given the possible impact of these facilities on natural resources and cultural values important to Kansas, we urge you to speak out against any threats to Cheyenne Bottoms and the Quivira National Wildlife Refuge. Additionally, we request your support for the bishops' call for a two-year moratorium on the construction of new hog confinement facilities, with a capacity of 1,000 or more hogs.

Sincerely,

John Flicker  
President

*National Audubon Society*

cc:

Rick Hoffman  
CEO, Seaboard Farms  
FAX 913-261-2626

Christopher Cokinos  
Northern Flint Hills Audubon Society  
FAX 785-532-7004

from the desk of  
**John W. Zupancic**

P.O. Box 1933, 2018 N. 1st Ave. Dodge City, KS 67801  
ph. 316-225-6982 fax 316-225-7095 e-mail: sqintl@midusa.net

March 18, 1998

Senator David Corbin  
Chairman, Senate Committee on Energy and Natural Resources  
State Capitol Bldg.  
Topeka, KS

Dear Senator Corbin:

I understand that your committee will be taking comments on HB 2950 which relates to environmental regulations covering confined swine feeding facilities. I have had some dialogue with the House Environment Committee on this subject and continue to take an interest in it.

I am an independent agronomist and a certified professional soil scientist from Dodge City who has worked in western Kansas for the past 16 years. Throughout half of those years in Kansas I managed Servi-Tech Laboratories, a well established and respected agricultural testing facility. Currently I work primarily as a consultant to industrial clients who irrigate with effluent.

The recent surge of initiatives by some large swine producers has prompted me to speak up about concerns that I have harbored for several years. It has been my observation that livestock wastes tend to be applied at excessive rates near confined livestock facilities and meat processing plants in western Kansas. This seems to be more of a problem when livestock waste disposal is tied to an irrigation system. I have seen evidence that constituents of animal manures and packing plant wastes are moving through the vadose zone toward groundwater in large quantities.

Typically in western Kansas, we have comforted ourselves by thinking that the vadose zone is very thick and depth to groundwater is generally about 180 ft., therefore we would never pollute the Ogallala aquifer upon which we all depend. However it has come to light that wells near synthetically lined lagoons at both IBP in Holcomb and Excel in Dodge City are contaminated with high levels of nitrates and probably increased levels of sulfate and chloride. There is evidence from the deep soil sampling activities which monitor the Dodge City Wastewater Recycling Project that nitrates will move deeply in our tighter loess-derived soils. We have found elevated nitrate levels at 50 ft. under well-managed irrigated fields. That is all the deeper that we have sampled but we know that the soils were wet at that depth whereas in nearby pasture the soil is dry past five feet.

The levels found at the Dodge City project, I fear are minute compared to those that might be found near many of our confined livestock facilities. Thus I was a vocal advocate that new swine facilities and probably all confined livestock facilities should develop manure and nutrient management plans in order to force management to look closely at its options for waste disposal. Then I advocate that deep soil and groundwater monitoring should be carried out as a means for assessing the success of the management plan.

HB 2950 requires manure and nutrient management plans but relegates the deep soil sampling to a KSU study which will determine its necessity. I do not really have a big problem with this but I must point out that much research has been carried out in Nebraska and Colorado on deep nitrate sampling and to some extent we may be re-inventing the wheel.

I am also concerned that our regulations for lagoon seepage may not provide the necessary protection. For example, underneath a lagoon seeping at 1/8" per day, it would take 8 years for

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wastewater to reach the Ogallala at 180 ft. deep. I understand that Oklahoma's new restrictions allow 15 times less seepage. The bill calls for operations larger than 3,725 animal units to place monitoring wells near lagoons where the groundwater is less than 150 ft. I am in favor of this approach because at least the operator and the neighbors get some feedback as to any problems which might occur. However the 150 ft limitation seems like a ploy to avoid doing so in areas underlain by the Ogallala because it usually runs from 170 to 200 ft deep in western Kansas. I am wondering if any monitoring wells will be placed in far western Kansas.

This aquifer is generally very pure and it is a shame to pollute it with anything, no matter how benign. Its degree of purity also makes it easy to detect intrusion by foreign contaminants. Unfortunately by the time pollution is detected, there is a plume traveling toward the aquifer 150 plus feet deep. I would really prefer to see a more stringent approach with suction lysimeters or tubes such as are used in Europe.

Based upon literature from the North Carolina legislature, it appears that operators in Kansas will have a \$25 - 30 comparative advantage over European producers because of the cost of pollution control in Europe. I am sure that companies developing these large confinement operations are hoping to use this advantage to maximize profits. They might reason that because population densities are lower in Kansas they might not meet as much resistance as they have elsewhere.

Thus they utilize relatively passive, anaerobic systems for treating their waste. These systems are lower in cost and less expensive to maintain than many of the European systems. However, there are times when the odors which emanate from them are literally unbearable to their neighbors. The odors are a mixture of ammonia, hydrogen sulfide and various other gases. Scientists have been stymied in attempts to define emission standards for swine lagoons because of the variety of gases and other challenges. However, it appears that by using uncovered, anaerobic lagoons and disposing of the liquid manure through sprinklers these operators are counting on losing great amounts of gases to the atmosphere. For example, gaseous losses of ammonia are estimated at 50 to 80% from these systems. These losses are built into their management plans. That's a lot of ammonia and other gases.

I made a rough estimate that if we do raise the 4 million finish swine in Kansas that Seaboard Corp. purports, it will be like venting 3,000 to 5,000 anhydrous tanks directly to the atmosphere. Some redress should be made to those who will be forced to live among these odors and other inconveniences. If people in a certain county decide that they do not want to live among such odors then they should have a voice in that. Amendments have been made along those lines to this bill, but I fear that they will be stricken by the Senate. Therefore, I urge you to give this last point serious consideration.

Sincerely,

John Zupancic



Copy (Taff)

## TESTIMONY

Senate Energy and Natural Resource Committee on Substitute for HB 2950

Presented by:  
Max Johannsen, Chairman  
Meade County Commissioner  
23006 15 Road  
Meade KS 67864

3-18-98

Dear Sirs

In regards to HB 2950, that the people should be able to vote on the corporate hog farm issue again in 2 years.

First I would like to begin with a little background about myself. I am 46 years old, was born and raised in Meade county and am a fourth generation farmer/rancher on the property my great-grandparents homesteaded. My wife and I have 4 children, ranging in ages from 11 - 19, who someday hope to farm & ranch themselves. All of my children are concerned, and have many times said "Dad don't let those big hog farms come to Meade county". My wife and I plan to retire here, we like living in this community and enjoy our natural resources

I am serving my second term as County Commissioner. Four years ago, I supported Corporate Hog Farms, but have since changed my opinion on this issue, due to the negative impact I feel it will have on the environment and community. I have witnessed the negative impact these corporate hog farms have had on our neighboring counties and states.

The people in my county voted to allow corporate hog farms, in 1994. After a three year period more information became available on the impact of large hog barns and lagoons, on the environment. The majority of the people have changed their opinion on the corporate hog farm issue. We held an Advisory Opinion, in November 1997. The majority of the voters, voted to rescind the resolution to allow corporate hog farming in Meade County. However, since this was only an Advisory Opinion, not all the commissioners want to rescind this resolution. I feel that, in cases like this, we should be allowed to have a binding election after 2 years.

I would also like to address the moratorium on animal units of over 3800 head. I feel that this number is too high and feel that this should be reduced. My concerns are mainly with the

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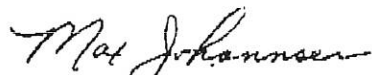
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environment. The amount of water to service a facility of this size would be substantial, not to mention the acreage required to get rid of the affluent. I had a free flowing artesian well dug on my farm 15 years ago, and due to the increased water usage in this area, this well no longer flows year round. Also, the odor is a real problem with large hog farms. I recently visited with a Meade county resident who, after visiting Morton county, has now changed his mind on corporate hog farms. He said "if anyone can't make up their mind on how they feel about this issue, just go to Morton county, the smell made my whole family sick"

Thank-you for your time

Good Luck and May God Bless



Max Johansen, Chairman  
Meade County Commissioner

March 17, 1998  
Bryan and Diane Enns  
16051 Z Road  
Meade, Kansas 67864

To the Honorable Kansas Senators:

We are writing you to ask you to support Substitute HB 2950 and its amendments.


In November 1997 Meade County held a nonbinding election on corporate hog farming expansion; the vote was decidedly against large-scale hog farming. Unfortunately, the ultimate decision on the issue rests with our County commissioners, who have refused to rescind their Resolution allowing it. This leaves the people of Meade County with literally no representation on this issue, although we have made it clear by our vote what we do not want. In view of this circumstance, it is of utmost importance for us to have the right to have a legally binding vote on this issue. This would give us back our democracy and right to protect the voting public's interests.

We also support the one-year moratorium on corporate hog expansion to study facts involved, so that informed decisions can be made. However, we think that the 3,800 animal unit figure is too high, as this would translate into a 9,500-pig (nine thousand five hundred) operation. This is not right when counties have voted against large-scale hog operations. The animal-unit figure needs to be reduced in order to carry out the intent and the will of the people who will be living around these facilities.

Please give these thoughts your careful consideration when voting on Substitute HB 2950 and its amendments. Enclosed is a letter we sent to Governor Graves and Kansas Representatives, for your information.

Thank you for your time in reading these letters and their consideration in HB 2950.

Sincerely,



Diane Enns

Encl

Senate Energy & Natural Resources

Attachment: //

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February 28, 1998  
Bryan and Diane Enns  
16051 Z Road  
Meade, Kansas 67864

The Honorable Governor Graves  
State House  
Topeka, Kansas 66621

Dear Governor Graves:

We have resided in rural southwest Kansas in Meade County for over eight years. Some of the reasons why we chose to live here include a good school system, low crime rate, good neighbors, an overall high quality of life, and a healthy environment. We think these qualities of life are being threatened by allowable expansion of large-scale corporate hog farming in this area.

This is not an issue just about foul-smelling odors and it is not a hog verses cattle issue. The Denver Post published an article February 5, 1998, stating that groundwater contamination had actually occurred near Holyoke, Colorado, where nitrate levels tested more than twice levels allowed by the EPA. It is interesting to note that this contamination occurred simply from overapplication of hog effluent from a nearby field. How many farmers who are using this effluent actually test to ensure excesses applied aren't contaminating groundwater?

In the same news article, a table was shown listing states and their respective regulations concerning the hog farming industry. From the list, states surrounding Kansas that have more stringent regulations included Nebraska, Missouri, Oklahoma, New Mexico, and Texas. Colorado appears to be the only nearby state that is also dragging its legislative feet in this area.

There are inherent differences between mega hog farms and cattle feedlots. We have talked to environmental experts who do not have a problem with how cattle feedlot waste is managed, but they are opposed to the confined aspect of hog farming, which creates particular and different waste problems. There is also the issue of disease. There are more communicable diseases transferred from hogs to humans than from cattle to humans. Would you want a lagoon leaking waste into the ground near your home? Yet, this is what current regulations allow. Isn't there a safer, better way to dispose of hog waste? How many legislators have informed themselves on the actual operational facts on these issues?

Since November 1994, 22 counties in Kansas have voted on corporate hog farming; 21 counties have voted against corporate hog farming, with the vote being 72% against and

28% for. Does this not indicate some kind of a mandate to Kansas legislators to represent what Kansas people are saying?

A moratorium needs to be declared on construction or expansion of large hog facilities to allow time for more factual, in-depth study of the long-term effects of large hog operations. More time is needed to develop safer regulations and provide for effective monitoring of them. KDH & E needs to develop more effective and adequate controls in this area. Oklahoma is on the verge of declaring its moratorium on hog operations. We also need to close loopholes that currently allow mega hog farms to disguise themselves as "family farms" and those that allow finishing facilities to operate in counties that have voted against mega hog operations. Let the people who live here have a say in what happens here. We've already said by vote what we do not want.

The corporate hog farming industry should be environmentally as well as socially responsible, and their right to free enterprise should not be above their neighboring citizen's rights to quality of life, a safe environment, and equitable land value.

Sincerely,

Diane Enns

Testimonial before the energy and natural resource committee.

Submitted for House Bill 2950.

3-15-98

I am writing this letter for two reasons, to inform you about the situation in southwest Kansas, and the other is to let you in on a little bit of information that really concerns me.

My name is Leon Winfrey and I am a farm-stockman near Plains, Ks. I also started a hunting service in 1990 consisting mainly of Pheasant, Chucker, and Quail hunts. Our hunting service has grown into a large business not only in numbers but also in area. This year our groups ranged from Hawaii to Florida, from Wisconsin to Corpus Cristi, TX and many states in between. My family has been in western Kansas since 1894 when my great grand parents traveled from Illinois to what they called the wide open space of western Kansas. My roots are here and I plan on my future being here, but these large hog facilities concern me and my future of me staying here. As a grain producer it would seem that I would be very much in favor of anything that would consume grain. I think all the grain producers received a lesson from "Murphy Family Farms" this fall when they went to Argentina and purchased 3 shipments of corn, because they could buy it cheaper. That tells me my grain does not matter if the large corporations will buy grain cheaper than my cost of production.

If you have never been around these large hog facilities you don't know the odor the possible water contamination, and the depletion of our small community lifestyle. The main for this letter is the concern about my hunting service. I have hunting ground that is surrounded by hog farms, whenever we are in this area all my hunters say, "what is that awful smell."


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We had to leave different times because the smell was so bad. All of my groups from across the nation said the same thing. "I can't believe that Kansas would ever turn into a hog lot." I think you should know what our great state may be known as. I really believe that our state has and will get along just fine without these large corporations. Our state was found on small business and hard working individuals. Our hunting service has brought a lot of money and people to our state from hunting licenses, air travel, car rental, food, lodging, and just spending money. I hope if you let these corporations grow rapidly in Kansas it will not effect all of what our ancestor work and stood for.

In closing I what to remind you that we are a democracy and we depend on our voice being heard through county and state government.

A handwritten signature in cursive script, reading "Leon Winfrey". The signature is written in dark ink and is positioned on the right side of the page, below the main body of text.

# MEMO

**To:** Senate Energy & Natural Resources Committee  
**From:** Byron Bird and Associates, Chtd (submitted via E-mail to Sen. Huelskamp)  
**Subject:** Substitute for HB 2950  
**Date:** March 18, 1998

I will not be able to be in Topeka this week to testify before the committee. Please pass my comments on to the other members of the Senate Energy committee.

I have reviewed the 12 page supplemental note on substitute for House bill No. 2950I as passed by the House last Friday. I have also scanned the actual bill from the internet. There are still several areas that I would like to see changed.

1) To partially address the odor problem I would suggest that the set back distances be increased to 3 miles from any city, 3 miles from any city, county, state or federal park or wildlife refuge. This separation distance should apply to any facility with more than 1,000 animal units.

An example of this potential problem is with Arkalon Recreation Area. If Seaboard would have developed swine produciton facilities on the area of Amigo Ranch, they could have been less then three miles from the fishing lakes and campgrounds. A good breeze from the southwest would have over powered any person at those locaitons.

2) The part of the bill as it relates to the notice to owners of habitable structures does not address the fact that the "owner" may not live there and may not have sufficient time to reply to the notice. I believe that either a certified return receipt be presented to KDHE or a signed waiver from the owner. This still leaves the possible renter at the mercy of the prevailing winds.

3) As I testified before the House committee, I do not like the provision that exempts the operator from any nuisance suit if he has followed all of the regulations as stated for his size facility. I believe that to deprive the neighbors of the opportunity to bring a nuisance suit could be one of the worst parts of this bill. I believe that the operator should be held liable if he infringes upon my rights. I do not believe that any fines or penalties assessed by KDHE would be very much of a deterrent to the large mega hog companies.

There are two parts of the bill that I believe MUST be left intact. 1) The provision that allows the local citizens to obtain a vote every two years in counties that have lifted the ban on swine production facilities and 2) The placing of a moratorium in the counties that have voted against the corporate swine produciton facilities. However, I believe that the animal unit factor should be reduced to 1,000 animal units.

Senate Energy & Natural Resources <sup>1</sup>

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March 18, 1998

I believe that the bill as passed by the House is marginally acceptable. I understand that the House committee spent some 75 hours working on the bill and basically they have presented a good bill. However, I still believe that the final version should be done after the KSU study is complete. That is why I have been pushing for a two year moratorium across the board. That time would give a chance for both sides to present their views and work out a compromise of good workable regulations. At the present, it is my belief that the Kansas Pork Council had a major hand in drafting this bill without allowing the opposition very much input.

You mentioned in your February 23 newsletter that in 1983 Kansas had 10,000 pork producers. But that in 1998 there were only 4,000 left. You had a little note that the 6,000 that went out of business did not require governmental clean up. That is probably true because most of those were true family farms such as Gary Warden and the Rice brothers in Seward County. They did not have the large lagoons and covered confined feeding barns of current hog facilities. Therefore, there were no lagoons for any body to clean up. Things are a changing and we must have changing regulations to cope with the potential problems of the mega hog facilities.

Byron Bird  
224 N. Lincoln  
Liberal, KS 67901

(316) 624-1994

Energy and Natural Resources Committee

Honorable Senators;

I want to thank you for this opportunity to express my concerns on the concept of damage to the environment due to the passage of House Bill 2950.

House Bill 2950, as amended, is a money and power friendly bill, and is not people and environment friendly. 70% of the people in this S. W. Kansas area, and the moratorium petition signers from 88 Kansas Counties, are against this bill.

This bill was passed out of the House as an environmentally protective bill, and it exceeded all other States in requirements. Are we in competition with other States to see who can write the most restrictive bill? You and I know that all other States that have an influx of hogs are trying to pass, or have passed, legislation to declare a moratorium against mega-hog facilities until proper research has been completed. Once research has established the most protective method of controlling water and odor pollution, then, and only then, will these mega-hog installations be allowed. The truth is, Governor Graves authorized Kansas State University to research the lagoon system for leakage. KSU will not have their first report ready before November, 1999. KDHE and several of the Representatives say there are no reports of ground water contamination (see a condensed report, page 3).

Your position, at the Legislative level, should be to improve the States responsiveness to its Citizens, its Natural Resources, and to improve its rating as one of the 50 States of the Nation. You have, at your disposal right now, the opportunity to be a leader in the nation in establishing good ground rules for food production in the livestock industry. When the right precautions are not taken, and should damage result, the after effect can be terribly damaging to our State resources and the States future.

To simply ignore the peoples concerns (concerns based on first hand experience, proven happenings in other States, admission of guilt on the part of the players, the size of the installations, and the terrible amount of damage that could be done) should "not" be the direction of your leadership. Your direction of leadership, at this point, should be to guarantee those concerns can never happen, because of the honest and concerned decisions of this Senate Committee and this Senate.

One topic not really explained is the hydraulic pressure of 20 ft. of water in a 200 ft. X 200 ft. base, small lagoon type waste disposal system (approx. 3,800 hd.) is 5,936,000 gallon of water, which weighs 8# to the gallon and has 7.42 gallon to the cubic ft. A 20 ft. column of water would have a hydraulic pressure of 1,187.2 #s per square foot. The above lagoon would have a hydraulic pressure of 47,488,000 pounds (Approximately 589 loaded "to 85,000 lb." Semi-Tractor Trailer Rigs) That is a lot of pressure on a liner that is only 40/1000 of an inch thick. (about like a thumb nail). Problem creators can be; extreme weight, the ground moves, rocks come to the surface, earth tremors, burrowing animals.

Another consideration; A mega-hog installation is in operation, met all existing regulations before starting operation, 5 years later the monitoring wells show excessive nitrates!! What do you do?

Give your selves a "time out" in which to provide research, either good or bad (at least you will know), and also time for reviewing, and considering, the issue of "the peoples right to determine their own future at the county level". People have a right to determine there own accountability to each other. They do not need the State to tell them they need economic development at any cost.

When nitrate minimums are exceeded over 10 parts per M/L. The 16, IBP monitoring wells tested from 10 to 36 times the minimum. Don Brown of KDHE said no problem, there are no livestock or people drinking from these wells. If contamination just goes down and sits there, then how does all these water contaminants get distributed into the different drinking water aquifers? Please do not be driven into rash decisions.

I wanted to present this response to the committee in person, but due to the potential bad weather and other obligations I will not be able to deliver.

Thank you for your attention to this extremely important issue.

Lee Messenger  
535 Donna  
Garden City, Kansas  
316-275-4050

## A CONDENSED REPORT

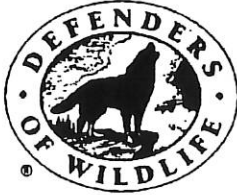
LEGISLATIVE DIVISION OF POST AUDIT, JANUARY 17, 1997. This report contains the findings, conclusions, and recommendations from the completed performance audit (Requested by the Legislative Post Audit Committee), Reviewing the Department of Health and Environment's Efforts to Protect Water from Pollution Caused by Confined Livestock Feeding Operations. This report clearly indicates there is ground water contamination happening and this contamination is coming from some source. The primary source suggested is the ground application of Nitrogen or Nitrogen products. The secondary source is, one or all, waste lagoon treatment facilities, land applied waste slurry materials, septic and sewer treatment facilities.

DIRECT QUOTES: "Page 3", although little has been done to quantify the amount of pollution from animal waste, some of the State's water supplies have been contaminated by this source. "Page 14", in 93% of the cases we reviewed, the Department didn't follow its procedures or requirements for regulating agricultural waste control facilities. "Page 18", inaction by the Department Over Nine Years May Have Allowed A Facility to Seep at More Than 20 Times the Allowed Standard.

STATUTES: "Page 28", Statutes KSA 65-159 through KSA 65-171. The Departments authority to regulate animal waste from confined feeding operations comes from Statutes specifically directed at these types of facilities. "Page 26", Senate Bill 800, relates to the registration requirements for feeding operations. "Page 29", KSA 65-3001 through 65-3018. The Departments Authority to regulate dust and odors is contained in the States air quality Statutes which aren't specifically directed at animal feeding operations, but are broad enough to include them. The act is designed to protect the States air quality from pollution, which is defined in the law to include things as smoke, fumes, vapor, dust and odorous substances.

A November, 1997, preliminary report by Kansas State University concluded, after some cattle feedlot lagoons tests using a floating testing instrument, which indicated less than the allowed seepage rate, made this statement regarding waste lagoon systems; Given the diverse nature of lagoon systems, soil types, and geology in Kansas, a long term, comprehensive, research program will be required to reach sound conclusions on this issue. This study also made these two statements, during the period 1991-1995, concentrations exceeding the minimum 10 mg NO<sub>3</sub>-N/L were observed in 12% of the samples and a separate study of ground water wells, elevated levels of N/O<sub>3</sub> levels were present in 28% of the wells tested. (No scientific tests have been completed for actual determination of all source's that could create the problems).

Lee Messenger  
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316-275-4050



Rick Hoffman, CEO  
 Seaboard Farms, Inc.  
 9000 W. 67<sup>th</sup> St.  
 Box 29135  
 Shawnee Mission, Kansas 66201

March 3, 1998

Dear Mr. Hoffman:

On behalf of Defenders of Wildlife and its members and supporters in Kansas, I am writing to express my concern about your impending decision to site a hog processing plant near Cheyenne Bottoms wildlife refuge. Such a decision could have significant environmental impacts on the many threatened and endangered species that depend on this area.

Cheyenne Bottoms is a state-owned refuge and has been designated as a wetland of international importance. It, as well as Quivira National Wildlife Refuge to the south, serves as host to endangered and threatened species such as whooping cranes, bald eagles, peregrine falcons, least terns and piping plovers. Both the federal Endangered Species Act and the Kansas Nongame and Endangered Species Conservation Act prohibit the "taking" of listed species, ranging from the actual killing of a species to the destruction of its habitat.

It is my understanding that the proposed plant is slated to pull up to three million gallons of water per day out of the local water supply. Equally of concern is the possibility of seepage from the waste lagoons and processing plant. Among potential threats are runoff from excess waste application, migration into groundwater from waste application and lagoon leakage and atmospheric wet deposition of nitrates and ammonia. These impacts threaten the water sources for both Cheyenne Bottoms and Quivira National Wildlife Refuge.

Defenders of Wildlife is strongly opposed to the siting of a processing plant that could harm such natural treasures as Cheyenne Bottoms and Quivira NWR. On behalf of Defenders, I urge you to withdraw the proposal for a site near these areas.

Sincerely,

*Susan George*

Susan George  
 State Counsel

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Senate Energy & Natural Resources

Attachment: 15

Date: 3-19-98 15-1